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David Frank Burggraaf

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EXAMINER

CARDENAS-GARCIA, JAIME F

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/523,998	Applicant(s) BURGGRAAF ET AL.	
	Examiner JAIME F. CARDENAS-GARCIA	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) 45-56 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 and 57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/29/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I in the reply filed on 04/29/2008 is acknowledged. Claims 45-56 are withdrawn.

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application Nos. 525953 and 520792, filed on 05/15/2003 and 08/14/2002, respectively.

Information Disclosure Statement

The information disclosure statement (IDS) was submitted on 08/29/2007. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

Figure 3: reference characters 86, 1, 22;

Figure 10: reference characters 3, 16, 17, 18, 30.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures

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appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "... substantially vertical pivot axis horizontally movable relative to and within the plane of the opening." of claim 3 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

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Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as “Annotated Sheets” and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

Specification

4. The disclosure is objected to because of the following informalities:

Page 12, line 25 – 27: the description of Figure 11 is unclear and needs to better specify the subject matter to which it refers; and “they orientation” is suggested to be changed to - - the orientation - -.

Page 19, line 26: “any sag of the upper assembly 26” is suggested to be changed to - - any sag of the upper assembly 66 - -.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 1-44 and 57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 9, 11, 14 and 57, use of parenthesis in numerous claims: non-limiting examples include, e.g., claim 1 "(glazed or otherwise)", is applicant claiming all manner of panels? "(hereafter "skewed")" is applicant claiming "skewed" exclusively? Etc.

Regarding claim 1, the phrase "or like structure" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or like structure"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Regarding claims 24 and 25, the phrase "of a size commensurate" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "of a size commensurate "), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Regarding claims 28, 37, 38 and 39, the use of "its" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "its "), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

6. Regarding claim 12, the word "means" is preceded by the word(s) "allowing by" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s)

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preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

7. Regarding claim 14 and 15, the word "means" is preceded by the word(s) "articulation" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

8. Regarding claims 41, 42, 43 and 44, the word "means" is preceded by the word(s) "mutually attractive" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

9. Regarding claim 42, the word "means" is preceded by the word(s) "magnetically attractive" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

10. Claim 57 – "at/or adjacent" is unclear. Is it at, or is it adjacent?

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11. Claims 2-44 are rejected as depending, directly or indirectly, from a rejected claim.

Applicant is advised to review all claims for clarity and definiteness, as the above are non-limiting examples only.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1, 2, 7, 8, 17, 21, 22, 27 and 57 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferris United States Patent number 1 288 861.

Re Claim 1: Ferris teaches a closure assembly of an opening of or in a building or like structure, said closure assembly including at least two mutually pivoted panels (7, 9) (glazed or otherwise) mounted with the mutual pivot axis (at hinge mounted at 8) at least substantially vertical and so as to be movable between:

(i) a closed condition whereby said at least two panels (7, 9) at least substantially in mutual alignment provide at least a partial closure of said opening in or substantially parallel to the plane of the opening, and

(ii) an opened condition whereby said at least two panels (7, 9), mutually disaligned by having pivoted mutually towards each other, are substantially clear of the plane of the opening and where one of each, or all of at least two panels, lie at an acute angle or parallel with respect to the plane of the opening,

wherein one of said panels (7) (the "proximate panel") is pivoted by an at least substantially vertical pivot axis (at hinge mounted at 8) substantially in the plane of the opening at and/or adjacent a vertical periphery of said opening ("the proximal periphery"), and

wherein the distal region of the other panel (9) (the "distal panel") is supported by at least one supporting runner (15, 16, 17),

wherein the supporting runner (15, 16, 17) running on a support track (10) which, at least in part is skewed, angled or angling, cranked or curved (hereafter "skewed") with respect to the plane of said opening, has the affect of spacing the supporting runner out of the plane of said opening at/or adjacent said proximal periphery, Ferris: Figs. 1 – 6 in drawing sheets 1 and 2 of 2.

Re Claim 2: Ferris teaches a closure assembly as claimed in claim 1 wherein the proximate panel (7) is pivoted by a substantially vertical pivot axis (at hinge mounted at 8) fixed relative to said opening, Ferris: Figs. 1 – 6 in drawing sheets 1 and 2 of 2.

Re Claim 7: Ferris teaches a closure assembly as claimed in claim 1 wherein the support track (10) is substantially rectilinear in form and is at an acute angle with respect to the plane of the opening, Ferris: Figs. 1 – 6 in drawing sheets 1 and 2 of 2.

Re Claim 8: Ferris teaches a closure assembly as claimed in claim 1 wherein the support track (10) is at least in part rectilinear in form and said part is at an acute angle with respect to the plane of the opening, Ferris: Figs. 1 – 6 in drawing sheets 1 and 2 of 2.

Re Claim 17: Ferris teaches a closure assembly as claimed in claim 1 wherein the support runner (15, 16, 17) is provided at the top of the distal panel (9), Ferris: Figs. 1 – 6 in drawing sheets 1 and 2 of 2.

Re Claim 21: Ferris teaches a closure assembly as claimed in claim 1 wherein the proximal panel (7) is pivoted by a fixed vertical pivot axis (at hinge mounted at 8) at the proximal periphery, Ferris: Figs. 1 – 6 in drawing sheets 1 and 2 of 2.

Re Claim 22: Ferris teaches a closure assembly as claimed in claim 1 wherein said panels (7, 9) in an open position, lie substantially parallel to the plane of the opening, Ferris: Figs. 1 – 6 in drawing sheets 1 and 2 of 2.

Re Claim 27: Ferris teaches a closure assembly as claimed in claim 1 wherein said supporting runner (15, 16, 17) is a top runner affixed to a top or upper part of said distal panel (9), and wherein said opening of or in said building includes head framing (as shown in Fig. 1), said support track (10) is incorporated in a head assembly (12, 13, 14), said head assembly (12, 13, 14) including

- a) a longitudinally extending foundation member (13) to be fastened to the head framing of said opening with its longitudinal direction parallel to the plane of said opening,

- b) a subassembly carrying the support track (10), fastened to said foundation member (13) yet in a manner to allow the displacement of the said support track (10) in a manner selected from one or more of"

- (i) a linear manner to and from the bottom of said opening, and

(ii) a manner to allow the tilt of said track about a horizontal axis parallel to the plane of said opening, Ferris: Figs. 1 – 6 in drawing sheets 1 and 2 of 2.

Re Claim 57: A building including a closure assembly to an opening of said building, said closure assembly including at least two mutually pivoted panels (7, 9) (glazed or otherwise) mounted with the mutual pivot axis (at hinge mounted at 8) at least substantially vertical and so as to be movable between:

(i) a closed condition whereby said at least two panels (7, 9) at least substantially in mutual alignment provide at least a partial closure of said opening in or substantially parallel to the plane of the opening, and

(ii) an opened condition whereby said at least two panels (7, 9), mutually disaligned by having pivoted mutually towards each other, are substantially clear of the plane of the opening and where one of each, or all of at least two panels (7, 9), lie at an acute angle or parallel with respect to the plane of the opening,

wherein one of said panels (7) (the "proximate panel") is pivoted by an at least substantially vertical pivot axis (at hinge mounted at 8) substantially in the plane of the opening at and/or adjacent a vertical periphery of said opening ("the proximal periphery"), and

wherein the distal region of the other panel (the "distal panel") is supported by at least one supporting runner (15, 16, 17),

wherein the supporting runner (15, 16, 17) running on a support track (10) which, at least in part is skewed, angled or angling, cranked or curved (hereafter "skewed") with respect to the plane of said opening, has the affect of spacing the supporting

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runner (15, 16, 17) out of the plane of said opening at/or adjacent said proximal periphery, Ferris: Figs. 1 – 6 in drawing sheets 1 and 2 of 2.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as applied to claim 1 above, and further in view of Porter United States Patent number 1 934 089.

As discussed above, Ferris teaches all the elements as applied to claim 1. Ferris fails to teach wherein said proximate panel is pivoted by a substantially vertical pivot axis horizontally movable relative to and within the plane of the opening.

However, Porter teaches wherein said proximate panel (71) is pivoted by a substantially vertical pivot axis (22) horizontally movable relative to and within the plane of the opening, Porter: Fig. 13 in drawing sheet 4 of 4.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Porter, in addition to the teachings of Ferris, at the time the invention was made, to modify the closure assembly, as taught by Porter in light of the previously mentioned teachings of Ferris, which allows the use of a vertical pivot axis to be horizontally movable so as to allow the door to be more readily opened and folded together out of the doorway for the enjoyment of the user.

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2. Claims 4 – 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as applied to claim 1 above, and further in view of Piper United States Patent number 1 265 952.

Re Claim 4: As discussed above, Ferris teaches all the elements as applied to claim 1. Ferris fails to teach wherein said supporting runner includes a wheeled bogie engaged with the support track.

However, Piper teaches wherein said supporting runner (16) includes a wheeled bogie (17, 18) engaged with the support track (19), Piper: Figs. 1 and 3 in drawing sheet 1 of 1.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Piper, in addition to the teachings of Ferris, at the time the invention was made, to modify the closure assembly, as taught by Piper in light of the previously mentioned teachings of Ferris, which allows the use of a wheeled bogie engaged with the support track so as to allow the door to be more readily opened and folded together out of the doorway for the enjoyment of the user.

Re Claim 5: As discussed above, Ferris teaches all the elements as applied to claim 1. Ferris fails to teach wherein said support runner includes a vertical axis pivot to allow said wheeled bogie to pivot relative to said distal panel about a vertical axis.

However, Piper teaches wherein said support runner (16) includes a vertical axis pivot to allow said wheeled bogie (17, 18) to pivot relative to said distal panel (8) about a vertical axis, Piper: Figs. 1 and 3 in drawing sheet 1 of 1.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Piper, in addition to the teachings of Ferris, at the time the invention was made, to modify the closure assembly, as taught by Piper in light of the previously mentioned teachings of Ferris, which allows the use of a wheeled bogie to pivot relative to said distal panel about a vertical axis so as to allow the door to be more readily opened and folded together out of the doorway for the enjoyment of the user.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as modified by Piper as applied to claim 5 above, and further in view of Labelle United States Patent number 4 408 369.

As discussed above, Ferris modified by Piper teaches all the elements as applied to claim 5. Ferris modified by Piper fails to teach wherein said vertical axis of said pivot of said wheeled bogie is located at the mid thickness of said distal panel.

However, Labelle teaches wherein said vertical axis (83) of said pivot of said wheeled bogie (65) is located at the mid thickness of said distal panel (9), Labelle: Fig. 3 in drawing sheet 2 of 2.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Labelle, in addition to the teachings of Piper and Ferris, at the time the invention was made, to modify the closure assembly, as taught by Labelle in light of the previously mentioned teachings of Piper and Ferris, which allows the vertical axis of said pivot of said wheeled bogie to be located at the mid thickness of said distal panel so as to allow the door to be more readily opened and folded together out of the doorway for the enjoyment of the user.

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4. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as applied to claim 1 above, and further in view of Frantz United States Patent number 1 570 958.

Re Claim 9: As discussed above, Ferris teaches all the elements as applied to claim 1. Ferris fails to teach wherein the support track is rectilinear in form and parallel with the plane of the opening (preferably in the plane of the opening) save for that part thereof immediately proximal to the proximal periphery, where said track is angled to the plane of said opening to step the supporting runner out of the plane of the opening.

However, Frantz teaches wherein the support track is rectilinear in form (12) and parallel with the plane of the opening (preferably in the plane of the opening) save for that part thereof immediately proximal to the proximal periphery, where said track is angled (13) to the plane of said opening to step the supporting runner out of the plane of the opening, Frantz: Fig. 2 in drawing sheet 1 of 2.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Frantz, in addition to the teachings of Ferris, at the time the invention was made, to modify the closure assembly, as taught by Frantz in light of the previously mentioned teachings of Ferris, which allows the use of a support track that has a straight and a curved section so as to allow the door to be more readily opened and folded together out of the doorway for the enjoyment of the user.

Re Claim 10: As discussed above, Ferris teaches all the elements as applied to claim 1. Ferris fails to teach wherein the support track is curved.

However, Frantz teaches wherein the support track (12, 13, 14) is curved, Frantz: Fig. 2 in drawing sheet 1 of 2.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Frantz, in addition to the teachings of Ferris, at the time the invention was made, to modify the closure assembly, as taught by Frantz in light of the previously mentioned teachings of Ferris, which allows the use of a support track that has a straight and a curved section so as to allow the door to be more readily opened and folded together out of the doorway for the enjoyment of the user.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as applied to claim 1 above, and further in view of Ellison United States Patent number 1 964 316.

As discussed above, Ferris teaches all the elements as applied to claim 1. Ferris fails to teach wherein the distal region of the distal panel is supported by one supporting runner affixed at the bottom (the "vertical supported location") of the distal panel.

However, Ellison teaches wherein the distal region of the distal panel (20) is supported by one supporting runner (47) affixed at the bottom (the "vertical supported location") of the distal panel (20), Ellison: Fig. 8 and 9 in drawing sheet 4 of 5.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Ellison, in addition to the teachings of Ferris, at the time the invention was made, to modify the closure assembly, as taught by Ellison in light of the previously mentioned teachings of Ferris, which allows the support of the distal panel by a supporting runner affixed at the bottom of the distal panel so as to ensure the

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positioning of said panels in a desired position to assure control of the positioning of said closure assembly when fully open for the convenience of the user.

6. Claim 12 – 16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as modified by Ellison.

Re Claim 12: As discussed above, Ferris as modified by Ellison teaches all the elements as applied to claim 11. Moreover, Ferris teaches wherein the other of said top or bottom to said vertical supported location is associated with a guiding runner (15, 16, 17) tracked by a guiding track (10) in the plane or parallel to the plane of the opening, such guiding runner (15, 16, 17) nevertheless allowing by means of an extensile association of the guiding runner (15, 16, 17) with the distal panel (9), movement for the distal panel (9) in following the support track (10) defined locus allowing the distal region of the distal panel (9) to move as guided and pivoted with respect to the opening by the supporting runner (15, 16, 17) guided by the support track (10), Ferris: Figs. 1 – 6 in drawing sheets 1 and 2 of 2.

Re Claim 13: As discussed above, Ferris as modified by Ellison teaches all the elements as applied to claim 11. Moreover, Ferris teaches wherein the other of said top or bottom to said vertical supported location is associated with a guiding runner (15, 16, 17) tracked by a guiding track (10) in the plane or parallel to the plane of the opening, such guiding runner (15, 16, 17) including an extensile arm (12) pivotally attached to the distal panel (9), said extensile arm (12) allowing the following of the support track (10) defined locus required to allow the distal region of the distal panel (9) to move as constrained by said support track (10), Ferris: Figs. 1 – 6 in drawing sheets 1 and 2 of 2.

Re Claim 14: As discussed above, Ferris as modified by Ellison teaches all the elements as applied to claim 12. Moreover, Ferris teaches wherein the guiding runner (15, 16, 17) includes an articulation means (12) extending in a pivotal manner between the distal panel (9) (at or towards the distal region) said articulation means (12) being further pivotally associated with said guiding track (10) via a runner bogie (at 15) located with and guided by the guiding track (10), thereby providing said extensile association, Ferris: Figs. 1 – 6 in drawing sheets 1 and 2 of 2.

Re Claim 15: As discussed above, Ferris as modified by Ellison teaches all the elements as applied to claim 14. Moreover, Ferris teaches wherein said articulation means (12) is a rigid arm, Ferris: Figs. 1 – 6 in drawing sheets 1 and 2 of 2.

Re Claim 16: As discussed above, Ferris as modified by Ellison teaches all the elements as applied to claim 15. Moreover, Ferris teaches wherein said rigid arm (12) extends perpendicular to said plane of said opening when said panels (7, 9) are in said open condition, Ferris: Figs. 1 – 6 in drawing sheets 1 and 2 of 2.

Re Claim 18: As discussed above, Ferris as modified by Ellison teaches all the elements as applied to claim 12. Moreover, Ellison teaches wherein the guide runner (47) is located at the bottom of the distal panel (20), Ellison: Figs. 8 and 9 in drawing sheet 4 of 5.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Ellison, in addition to the teachings of Ferris, at the time the invention was made, to modify the closure assembly, as taught by Ellison in light of the previously mentioned teachings of Ferris, which allows the support of the distal panel by a

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supporting runner affixed at the bottom of the distal panel so as to ensure the positioning of said panels in a desired position to assure control of the positioning of said closure assembly when fully open for the convenience of the user.

Re Claim 19: As discussed above, Ferris as modified by Ellison teaches all the elements as applied to claim 12. Moreover, Ellison teaches wherein the guide runner (28, 29) is provided at the top of the distal panel (9) and the supporting runner (47) is located at the bottom of the distal panel (9), Ellison: Figs. 2, 8 and 9 in drawing sheet 2 and 4 of 5.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Ellison, in addition to the teachings of Ferris, at the time the invention was made, to modify the closure assembly, as taught by Ellison in light of the previously mentioned teachings of Ferris, which allows the support of the distal panel by a supporting runners affixed at the top and bottom of the distal panel so as to ensure the positioning of said panels in a desired position to assure control of the positioning of said closure assembly when fully open for the convenience of the user.

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as applied to claim 1 above, and further in view of Ellison.

As discussed above, Ferris teaches all the elements as applied to claim 1. Ferris fails to teach wherein the distal region of the distal panel is supported by a top and bottom located supporting runner, each supporting runner running in a respective said support track, disposed at the top and bottom of the opening.

However, Ellison teaches wherein the distal region of the distal panel is supported by a top (28, 29) and bottom (47) located supporting runner, each supporting runner running in a respective said support track (5, 3), disposed at the top and bottom of the opening, Ellison: Figs. 1, 2, 8 and 9 in drawing sheet 1, 2 and 4 of 5.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Ellison, in addition to the teachings of Ferris, at the time the invention was made, to modify the closure assembly, as taught by Ellison in light of the previously mentioned teachings of Ferris, which allows the support of the distal panel by a supporting runners affixed at the top and bottom of the distal panel, with their respective tracks, so as to ensure the positioning of said panels in a desired position to assure control of the positioning of said closure assembly when fully open for the convenience of the user.

8. Claims 23 – 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as applied to claim 1 above, and further in view of Dodson et al. United States Patent number 6 467 226.

Re Claim 23: As discussed above, Ferris teaches all the elements as applied to claim 1. Ferris fails to teach wherein the closure assembly is fully framed.

However, Dodson et al. teaches wherein the closure assembly is fully framed, Dodson et al.: Fig. 1 in drawing sheet 1 of 6.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Dodson et al., in addition to the teachings of Ferris, at the time the invention was made, to modify the closure assembly, as taught by Dodson et al. in light

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of the previously mentioned teachings of Ferris, which allows the use of a fully framed closure assembly for convenient installation and replacement for the convenience of the user.

Re Claim 24: As discussed above, Ferris teaches all the elements as applied to claim 1. Ferris fails to teach wherein the perimeter of said closure assembly is defined by a frame structure of a size commensurate to being received in said opening of or in said building or like structure.

However, Dodson et al. teaches wherein the perimeter of said closure assembly is defined by a frame structure of a size commensurate to being received in said opening of or in said building or like structure, Dodson et al.: Fig. 1 in drawing sheet 1 of 6.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Dodson et al., in addition to the teachings of Ferris, at the time the invention was made, to modify the closure assembly, as taught by Dodson et al. in light of the previously mentioned teachings of Ferris, which allows the use of a fully framed closure assembly of a size commensurate to being received in said opening of or in said building or like structure for convenient installation and replacement for the convenience of the user.

Re Claim 25: As discussed above, Ferris teaches all the elements as applied to claim 1. Ferris fails to teach wherein the perimeter of said closure assembly is defined by a frame structure made up of several members.

However, Dodson et al. teaches wherein the perimeter of said closure assembly is defined by a frame structure of a size commensurate to being received in said opening of or in said building or like structure said frame including a top frame extrusion (4), and a bottom frame extrusion (4) parallel to said top frame extrusion (4) and to extend horizontally in use, and two side frame extrusions (4) affixed to and extending between said top (4) and bottom (4) frame extrusion and parallel to each other and to in use extend vertically, Dodson et al.: Fig. 1 in drawing sheet 1 of 6.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Dodson et al., in addition to the teachings of Ferris, at the time the invention was made, to modify the closure assembly, as taught by Dodson et al. in light of the previously mentioned teachings of Ferris, which allows the use of a fully framed closure assembly of a size commensurate to being received in said opening of or in said building or like structure for convenient installation and replacement for the convenience of the user.

9. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as modified by Dodson et al. as applied to claim 23 above.

As discussed above, Ferris as modified by Dodson et al. teaches all the elements as applied to claim 23. Moreover, Dodson et al. teaches wherein said frame is at least in part an assembly of extruded forms, Dodson et al.: Fig. 1 in drawing sheet 1 of 6.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Dodson et al., in addition to the teachings of Ferris, at the time the invention was made, to modify the closure assembly, as taught by Dodson et al. in light

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of the previously mentioned teachings of Ferris, which allows the use of a fully framed closure assembly made of an assembly of extruded forms of a size commensurate to being received in said opening of or in said building or like structure for convenient installation and replacement for the convenience of the user.

10. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as modified by Dodson et al. as applied to claim 25 above.

As discussed above, Ferris as modified by Dodson et al. teaches all the elements as applied to claim 25. Moreover, Ferris teaches a closure assembly as claimed in claim 25 wherein said supporting runner (15, 16, 17) is a top runner affixed to a top or upper part of said distal panel (9), wherein said top frame member is a head assembly (12, 13, 14), said head assembly (12, 13, 14) including

- a) a longitudinally extending foundation member (13) to be fastened to the building and in a manner with its longitudinal direction parallel to the plane of said opening,

- b) a subassembly carrying the support track (10), fastened to said foundation member (13) yet in a manner to allow the displacement of the said support track (10) in a manner selected from one or more of

- (i) a linear manner to and from the foundation member (13), and

- (ii) a manner to allow the tilt of said track about a horizontal axis parallel to the plane of said opening, Ferris: Figs. 1 – 6 in drawing sheets 1 and 2 of 2.

11. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as modified by Dodson et al. as applied to claim 28 above.

As discussed above, Ferris as modified by Dodson et al. teaches all the elements as applied to claim 28. Moreover, Dodson et al. teaches wherein said foundation member is fixed to said side frame members, Dodson et al.: Fig. 1 in drawing sheet 1 of 6.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Dodson et al., in addition to the teachings of Ferris, at the time the invention was made, to modify the closure assembly, as taught by Dodson et al. in light of the previously mentioned teachings of Ferris, which allows the use of a fully framed closure assembly made of an assembly of extruded forms to have a foundation member fixed to said side frame members to have an integral structure that is convenient to install and replace for the convenience of the user.

12. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as modified by Dodson et al. as applied to claim 28 above and further in view of Johnsen United States Patent number 4 836 494.

As discussed above, Ferris as modified by Dodson et al. teaches all the elements as applied to claim 28. Ferris as modified by Dodson et al. fails to teach wherein said subassembly is engaged to said foundation member by two arrays of vertically extending adjustment screws, a first array and a second array parallel to each other and to the plane of the opening, wherein the differential adjustment of the screws in one array to the other array inducing said tilt and wherein corresponding adjustment of the screws in the first array and the second array inducing the linear displacement.

However, Johnsen teaches wherein said subassembly is engaged to said foundation member by two arrays of vertically extending adjustment screws (to fit into holes 14), a first array and a second array parallel to each other and to the plane of the opening, wherein the differential adjustment of the screws in one array to the other array inducing said tilt and wherein corresponding adjustment of the screws in the first array and the second array inducing the linear displacement, Johnsen: Fig. 2 in drawing sheet 2 of 4.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Johnsen, in addition to the teachings of Dodson et al. and Ferris, at the time the invention was made, to modify the closure assembly, as taught by Johnsen in light of the previously mentioned teachings of Dodson et al. and Ferris, which allows the use of a subassembly that uses two arrays of parallel screws to level the rail so as to have an integral structure that is convenient to install and replace for the convenience of the user.

13. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as modified by Dodson et al. as applied to claim 28 above and further in view of Johnsen and Plowman United States Patent number 4 590 706.

As discussed above, Ferris as modified by Dodson et al. teaches all the elements as applied to claim 28. Ferris as modified by Dodson et al. fails to teach a pelmet.

However, Plowman teaches wherein said subassembly includes a pelmet (22), Plowman: Fig. 1 in drawing sheet 1 of 1.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Plowman, in addition to the teachings of Dodson et al. and Ferris, at the time the invention was made, to modify the closure assembly, as taught by Plowman in light of the previously mentioned teachings of Dodson et al. and Ferris, which allows the use of a subassembly that includes a pelmet so as to have an integral structure that is convenient to install and replace for the convenience of the user.

Furthermore, Johnsen teaches with which said track (1) is fastened and disposed therefrom in a manner to be exposed for engagement with the supporting runner, Johnsen: Fig. 2 in drawing sheet 2 of 4.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Johnsen, in addition to the teachings of Plowman, Dodson et al. and Ferris, at the time the invention was made, to modify the closure assembly, as taught by Johnsen in light of the previously mentioned teachings of Plowman, Dodson et al. and Ferris, which allows the mounting of a track rail that uses two arrays of parallel screws to level said rail so as to have an integral structure that is convenient to install and replace for the convenience of the user.

14. Claims 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as modified by Dodson et al., Johnsen and Plowman as applied to claim 31 above.

Re Claim 32: As discussed above, Ferris as modified by Dodson et al., Johnsen and Plowman teaches all the elements as applied to claim 31. Moreover, Plowman teaches wherein said pelmet (22) extends outwardly from the plane of the opening

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sufficient to present from below thereof said support track and to allow the spacing of the supporting runner to assume the opened condition, Plowman: Fig. 1 in drawing sheet 1 of 1.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Plowman, in addition to the teachings of Plowman, Johnsen, Dodson et al. and Ferris, at the time the invention was made, to modify the closure assembly, as taught by Plowman in light of the previously mentioned teachings of Plowman, Johnsen, Dodson et al. and Ferris, which allows the use of a subassembly that includes a pelmet that extends outwardly so as to have an integral structure that is convenient to install and replace for the convenience of the user.

Re Claim 33: As discussed above, Ferris as modified by Dodson et al., Johnsen and Plowman teaches all the elements as applied to claim 31. The limitation regarding the pelmet being formed by extrusion is a product by process limitation.

Determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. MPEP 2113.

15. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as modified by Dodson et al., Johnsen and Plowman as applied to claim 33 above.

As discussed above, Ferris as modified by Dodson et al., Johnsen and Plowman teaches all the elements as applied to claim 33. Moreover, Plowman teaches wherein said pelmet includes trimming panels (17) on each side of said support track spanning

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the gap between said support track and the longitudinal edges of said pelmet, Plowman: Fig. 1 in drawing sheet 1 of 1.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Plowman, in addition to the teachings of Plowman, Johnsen, Dodson et al. and Ferris, at the time the invention was made, to modify the closure assembly, as taught by Plowman in light of the previously mentioned teachings of Plowman, Johnsen, Dodson et al. and Ferris, which allows the use of a subassembly that includes a pelmet that includes trimming panels so as to have an integral structure that is convenient to install and replace for the convenience of the user.

16. Claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as modified by Dodson et al. and Johnsen as applied to claim 30 above.

Re Claim 35: As discussed above, Ferris as modified by Dodson et al. and Johnsen teaches all the elements as applied to claim 30. Moreover, Johnsen teaches wherein said first array of fastening screws is provided parallel to and on a first side of said plane of said opening and the second array is provided parallel to and on the other side of said plane of said opening, Johnsen: Fig. 2 in drawing sheet 2 of 4.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Johnsen, in addition to the teachings of Dodson et al. and Ferris, at the time the invention was made, to modify the closure assembly, as taught by Johnsen in light of the previously mentioned teachings of Johnsen, Dodson et al. and Ferris, which allows the mounting of a track rail that uses two arrays of parallel screws to level said

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rail so as to have an integral structure that is convenient to install and replace for the convenience of the user.

Re Claim 36: As discussed above, Ferris as modified by Dodson et al. and Johnsen teaches all the elements as applied to claim 30. Moreover, Johnsen teaches wherein said screws of each array are equispaced, Johnsen: Fig. 2 in drawing sheet 2 of 4.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Johnsen, in addition to the teachings of Dodson et al. and Ferris, at the time the invention was made, to modify the closure assembly, as taught by Johnsen in light of the previously mentioned teachings of Johnsen, Dodson et al. and Ferris, which allows the mounting of a track rail that uses two arrays of parallel screws that are equispaced to level said rail so as to have an integral structure that is convenient to install and replace for the convenience of the user.

17. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as applied to claim 1 above, and further in view of Ellison United States Patent number 1 964 316.

As discussed above, Ferris teaches all the elements as applied to claim 1. Ferris fails to teach a locking pin.

However, Ellison teaches wherein a locking pin (30) is provided fixed to said structure (25), said locking pin (30) positioned to engage at distal region of said distal panel (20) against an outwardly facing surface (11) of said distal panel (20) when said

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panels are at and proximate to its closed condition to capture from moving outwardly,

Ellison: Figs. 1 – 4 in drawing sheet 1 and 2 of 5.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Ellison, in addition to the teachings of Ferris, at the time the invention was made, to modify the closure assembly, as taught by Ellison in light of the previously mentioned teachings of Ferris, which allows the use of a locking pin to assure control of the positioning of said closure assembly when fully closed for the convenience of the user.

18. Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as modified by Dodson et al. as applied to claim 25 above, and further in view of Ellison.

Re Claim 38: As discussed above, Ferris as modified by Dodson et al. teaches all the elements as applied to claim 25. Ferris as modified by Dodson et al. fails to teach a locking pin.

However, Ellison teaches wherein a locking pin (30) is provided fixed to said frame, said locking pin (30) positioned to engage at distal region of said distal panel (20) against an outwardly facing surface (11) of said distal panel (20) when said panels (20) are at and proximate to its closed condition to capture said distal region against a jam portion (4) of said frame to thereby prevent said distal region from moving outwardly, Ellison: Figs. 1 – 4 in drawing sheet 1 and 2 of 5.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Ellison, in addition to the teachings of as modified by Dodson et al., at

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the time the invention was made, to modify the closure assembly, as taught by Ellison in light of the previously mentioned teachings of as modified by Dodson et al., which allows the use of a locking pin to assure control of the positioning of said closure assembly when fully closed for the convenience of the user.

Re Claim 39: As discussed above, Ferris as modified by Dodson et al. teaches all the elements as applied to claim 25. Moreover, Ferris teaches wherein said distal panel (9) is supported at a top or bottom thereof by a said support runner (15, 16, 17) and wherein at the other of said top or bottom the distal region of said distal panel includes an outwardly facing surface, Ferris: Figs. 1 – 6 in drawing sheets 1 and 2 of 2.

Ferris as modified by Dodson et al. fails to teach a locking pin.

However, Ellison teaches wherein a locking pin (30) is provided fixed to said frame structure, said locking pin (30) positioned to engage the outwardly facing surface of said distal panel (20) when said panels (20) are at and proximate to its closed condition to capture said distal region against a jam portion of said frame to thereby prevent said distal region from moving outwardly, Ellison: Figs. 1 – 4 in drawing sheet 1 and 2 of 5.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Ellison, in addition to the teachings of as modified by Dodson et al., at the time the invention was made, to modify the closure assembly, as taught by Ellison in light of the previously mentioned teachings of as modified by Dodson et al., which allows the use of a locking pin to assure control of the positioning of said closure assembly when fully closed for the convenience of the user.

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19. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as modified by Dodson et al. and Ellison as applied to claim 38 above.

As discussed above, Ferris as modified by Dodson et al. and Ellison teaches all the elements as applied to claim 38. Moreover, Ferris teaches wherein said outwardly facing surface is concealed to the outside surface of said distal panel, Ferris: Figs. 1 – 6 in drawing sheets 1 and 2 of 2.

20. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as applied to claim 1 above, and further in view of West United States Patent number 5 295 527.

As discussed above, Ferris teaches all the elements as applied to claim 1. Moreover, Ferris teaches wherein the proximal periphery disposed region of said proximal panel on the to be distal panel facing side thereof when in the opened condition, Ferris: Figs. 1 – 6 in drawing sheets 1 and 2 of 2.

Ferris fails to teach mutually attractive means.

However, West teaches the use of mutually attractive means to secure two panels together, West: Fig. 20 in drawing sheet 7 of 7.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of West, in addition to the teachings of Ferris, at the time the invention was made, to modify the closure assembly, as taught by West in light of the previously mentioned teachings of Ferris, which allows the securing of two panels together by mutually attractive means so as to ensure the positioning of said panels in a desired

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position to assure control of the positioning of said closure assembly when fully open for the convenience of the user.

21. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as modified by West, as applied to claim 41 above.

As discussed above, Ferris as modified by West teaches all the elements as applied to claim 41. Moreover, West teaches wherein said first and second mutually attractive means are magnetically attractive means, West: Fig. 20 in drawing sheet 7 of 7.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of West, in addition to the teachings of West and Ferris, at the time the invention was made, to modify the closure assembly, as taught by West in light of the previously mentioned teachings of West and Ferris, which allows the securing of two panels together by magnetically attractive means so as to ensure the positioning of said panels in a desired position to assure control of the positioning of said closure assembly when fully open for the convenience of the user.

22. Claims 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris as modified by West, as applied to claim 41 above, and further in view of Lacoste et al. United States Patent number 6 003 583.

Re Claim 43: As discussed above, Ferris as modified by West teaches all the elements as applied to claim 41. Ferris as modified by West fails to teach wherein said first and second mutually attractive means are both magnets.

However, Lacoste et al. teaches wherein said first and second mutually attractive means are both magnets, Lacoste et al.: Fig. 4 in drawing sheet 2 of 2.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Lacoste et al., in addition to the teachings of West and Ferris, at the time the invention was made, to modify the closure assembly, as taught by Lacoste et al. in light of the previously mentioned teachings of West and Ferris, which allows the securing of two panels together by magnets so as to ensure the positioning of said panels in a desired position to assure control of the positioning of said closure assembly when fully open for the convenience of the user.

Re Claim 44: As discussed above, Ferris as modified by West teaches all the elements as applied to claim 41. Ferris as modified by West fails to teach wherein said first and second mutually attractive means are positioned towards the bottom of said panels.

However, Lacoste et al. teaches wherein said first and second mutually attractive means are positioned towards the bottom of said panels, Lacoste et al.: Fig. 1 in drawing sheet 1 of 2.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Lacoste et al., in addition to the teachings of West and Ferris, at the time the invention was made, to modify the closure assembly, as taught by Lacoste et al. in light of the previously mentioned teachings of West and Ferris, which allows the securing of two panels together by first and second mutually attractive means positioned toward the bottom of said panels so as to ensure the positioning of said

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panels in a desired position to assure control of the positioning of said closure assembly when fully open for the convenience of the user.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAIME F. CARDENAS-GARCIA whose telephone number is (571) 270-5375. The examiner can normally be reached on m-th 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine W. Mitchell can be reached on (571) 272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/KATHERINE W MITCHELL/

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